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REMARKS

Claims 1-64 are pending in the present application. Reconsideration is respectfully requested for the following reasons.

In the Office Action, the Office Action Summary indicates that claims 6, 7, 10, 11, 23, 24, 28, 34-36, 40, 49-51, 54, 62 and 63 have been withdrawn from consideration. However, in the body of the Office Action, only claims 6, 7, 23, 24, 35, 36, 40, 49, 50, 51, 54, 62 and 63 are indicated as being drawn to a non-elected invention. Moreover, claims 10, 11, 28, 40, 49 and 54 were not withdrawn in any previous Office Action. Accordingly, Applicants assume that the error was in the Office Action Summary, and that claims 10, 11, 28, 40, 49 and 54 are drawn to the elected species. Furthermore, claim 34 also appears to belong to the elected species, especially since claim 34 depends from elected claim 32. Finally, since claims 10, 11, 28 and 34 are drawn to the elected species and have not been rejected as being anticipated or obvious over the prior art, Applicants respectfully request a Notice of Allowability of these claims in a subsequent Office communication.

The drawings have been objected to under 37 C.F.R. §1.83(a) for not showing the “front opening” as claimed in the claims. However, a housing having a front opening is clearly shown in Figs. 1, 2, 2a and 2b. Notably, the line 20, 20a and 20b extends out of the front opening of the housing in the drawings. Accordingly, Applicants submit that the objections to the drawings should be withdrawn.

Claims 1-5, 8, 9, 12-22, 25-33, 37-48, 50-61 and 64 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,971,775 to Lynam et al. in view of U.S. Patent No. 7,008,090 to Blank. Applicants submit that claims 1-5, 8, 9 and 12-16 are not obvious over the cited art of record.

As an initial matter, Applicants submit that it would not have been obvious to combine the references as set forth in the Office Action. The Lynam et al. ‘775 patent includes a light source 24 within an interior rearview assembly 10 that emits light through a lens or cover 28 in the bottom of the housing 30. Contrarily, the Blank ‘090 patent does not emit any light from the housing. The Blank ‘090 patent discloses a mirror system having an electro-optic reflective element 210 and a system for dimming the reflective element 210. Specifically, the Blank ‘090

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patent includes a circuit board 221 having photosensors 260, 262 and 264 thereon. Light pipes 250, 254 and 256 are connected to the photosensors 260, 262 and 264, respectively, for exposing one of the photosensors to a different light environment than the other photosensors. Applicants note that the lines 251, 255 and 258 in the Blank '090 patent are not drawn to the direction of light that is emitted from the mirror, but to the direction of the environment that the light pipes 250, 254 and 256 can sense light for dimming the reflective element 210.

Accordingly, the reason for the light pipes in the Blank '090 patent is to sense the light being emitted towards the mirror, which is inapplicable to the Lynam et al. '775 patent.

Furthermore, according to the Office Action, it would have been obvious to modify the mirror of the Lynam et al. '775 patent "in order to provide a rearview mirror that can illuminate around the rearview mirror as taught by Lynam et al. (column 1, lines 13-17)." However, the Office Action has taken this directly from the base Lynam et al. '775 patent which already performs this function. Therefore, combining the references as set forth in the Office Action would not improve or alter the base reference in any manner according to the justification for the combination in the Office Action. Accordingly, Applicants submit that it is not obvious to combine the references as set forth in the Office Action and that claims 1-5, 8-9, 12-22, 25-33, 37-48, 50-61 and 64 define patentable subject matter and are in condition for allowance.

Applicants further submit that even if it was obvious to combine the Lynam '775 patent with the Blank '090 patent, any resulting combination would not include all of the features of all of the claims as outlined in more detail below.

Claims 2, 21, 33 and 49 depend from claims 1, 17, 32 and 46, respectively, and state that the mirror housing includes a rear housing section and a bezel. According to the Office Action, the Blank '090 patent shows a rear housing section and a bezel. First, any housing of the Blank '090 patent is not part of the combination as the Lynam et al. '775 patent is the base reference in the combination of the Office Action. Second, the Blank '090 patent does not disclose both a rear housing section and a bezel. Accordingly, Applicants submit that claims 2, 21, 33 and 49 are in condition for allowance for this further reason.

Claims 13, 30 and 42 depend from claims 1, 17 and 32, respectively, and further include a carrier plate located within the housing, with the carrier plate including a first face

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and a second face, a printed circuit board located adjacent the second face of the carrier plate, with the printed circuit board including a first side facing the carrier plate and a second side facing away from the carrier plate, wherein the reflective element is located adjacent the first face of the carrier plate and the light source is connected to the second side of the printed circuit board.

The combination as set forth in the Office Action does not include any carrier plate or printed circuit board. According to the Office Action, the Blank '090 patent includes "the carrier plate 291 and a printed circuit board 221." However, the element 221 in the Blank '090 patent is an opposing surface of a printed circuit board 221. Accordingly, the Blank '090 patent does not disclose both a carrier plate and a printed circuit board. Furthermore, the printed circuit board 221 is not part of the combination of these references to reject the claims as set forth in the Office Action. Finally, it is not obvious to combine the cited references to include a carrier plate and a printed circuit board, wherein a reflective element is located adjacent a first face of the carrier plate and a light source is connected to the second side of the printed circuit board. Accordingly, claims 13, 30 and 42 are in condition for allowance for this further reason.

Claims 15, 19, 44 and 59 depend from claims 1, 17, 32 and 46, respectively, and further state that the beam axis is angled within about 45° relative to the second direction. According to the Office Action, it would have been obvious to one having ordinary skill in the art at the time of the invention to make the beam axis within about 45° relative to the second direction "since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum workable ranges involves only routine skill in the art." The Office Action cites the case of *In re Aller* as support for this proposition. However, in order to make a rejection over a prior holding, the Examiner is required to compare the facts in the present case to those in the cited case and explain why, based upon this comparison, the legal conclusion in the present case should be the same as that in the cited case as required by MPEP §2144. Instead, the Examiner has relied on a *per se* rule that "where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art." However, it is clear that "reliance on *per se*

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rules of obviousness is legally incorrect and must cease.” *In re Ochiai*, 37 USPQ2d 1127, 1133 (Fed. Cir. 1995). Furthermore, the *In re Aller* case cited by the Examiner and the optimization of ranges portion of MPEP §2144.05 is drawn to concentrations of chemical compositions or temperatures. Accordingly, Applicants submit that the citation to *In re Aller* in the Office Action is not applicable to the present claims and that claims 15, 19, 44 and 59 are in condition for allowance.

Claims 16, 20, 45 and 60 depend from claims 1, 17, 32 and 46, respectively, and further state that the beam axis is parallel to the first direction. The Office Action has apparently once again cited the *In re Aller* case to reject claims 16, 20, 45 and 60. However, the citation to the *In re Aller* case is totally applicable to these claims as discussed above in regard to claims 15, 19, 44 and 59. Accordingly, Applicants submit that claims 16, 20, 45 and 60 are in condition for allowance.

Claim 46 defines a rearview mirror assembly having a housing having a front opening and a bottom opening, a reflective element located within the housing, the reflective element having a front face configured to reflect light through the front opening and a rear face, a printed circuit board including a first side facing towards the reflective element and a second side facing away from the reflective element and a LED device directly connected to the second side of the printed circuit board. Light from the LED device exits the housing through the bottom opening in the housing.

The prior art of record does not obviate the above noted features of claim 46. According to the Office Action, the Blank ‘090 patent includes a carrier 291 and a printed circuit board 221. However, as discussed above in regard to claims 13, 30 and 42, the combination as set forth in the Office Action does not include any printed circuit board of the Blank ‘090 patent, the Blank ‘090 patent does not disclose both a carrier plate and a printed circuit board, and it is not obvious to combine the references to result in a printed circuit board having an LED device directly connected to a second side of the printed circuit board. Accordingly, claim 46 is in condition for allowance. Moreover, claims 47-64 depend from claim 46, and since claim 46 defines unobvious patentable subject matter as discussed above, claims 47-64 define patentable subject matter.

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Therefore, as set forth above, claims 1-5, 8, 9, 12-22, 25-33, 37-48, 50-61 and 64 are in condition for allowance. Moreover, withdrawn claims 6, 7, 23, 24, 35, 36, 50, 51, 62 and 63 depend from patentable claims and should be rejoined to the present application and allowed with their independent claims.

All pending claims 1-64 are believed to be in condition for allowance, and a Notice of Allowability is therefore earnestly solicited.

Respectfully submitted,

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Date

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